



Design Review Board  
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## Legal Action Report

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the [Design Review Board \(DRB\)](#) and to the general public that the Board will hold the following meeting which will be open to the public on:

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### DESIGN REVIEW BOARD

**Date and Time: Friday, August 3, 2018 - 7:30 a.m.**

**Location: Public Works Building, 3rd Floor North Conference Room  
201 North Stone Avenue, Tucson, Arizona**

#### 1. Call to Order/Roll Call – 7:35 am

Robert Page (Chair)	Present	David Marhefka	Present
Mike Anglin (Vice Chair)	Present	Savannah McDonald	Present
Nathan Kappler	Present		

#### 2. Call to the Audience – 7:36 am

#### 3. DRB-18-05 BK COMMISSARY BUILDING, 941 EAST 19TH STREET, I-1 (re-review)

City Staff introduces the case: This is a re-review of a case that was previously been reviewed. This applicant was not able to move forward with the application within the year requirement for the design review board and is now subject to a re-review. There were no conditions placed by the DRB at the time of the previous review.

Applicant's presentation: The applicant intends to put an expansion (a taco restaurant) out front on the south side of the existing building on the property along 19<sup>th</sup> street. The applicant also intends to put a drive through out front along 19<sup>th</sup> st. The reason for this proposal, as opposed to putting the restaurant at the back, is to make the site more accessible to the street for the viability of the restaurant.

Due to this, there is no space for a 10ft landscape border from the ROW on the south. Therefore, the applicant proposes to put only a 3ft buffer on the south along the ROW of 19<sup>th</sup> St. and move the remaining 7ft. buffer to the east side along Park Ave. where they are technically not required to put a landscape border because there is no adjacent ROW on the east side. There are existing parcels owned by the City between the ROW along Park and the applicant's parcel.

The applicant also mentioned that they would be willing to extend out the landscape buffer on to the ROW on the south if they were allowed to.

Chair Page recommended that the applicant should contact Gary Wittwer at TDOT to ask if they would be allowed to extend the landscape border up to 5 ft. on to the ROW on the south along 19<sup>th</sup> St. The applicant responded saying that they would very much be willing to do this.

Commissioner McDonald requested clarification on the drive-through is an area, of concern as there is no proposed vegetative buffer in an area where it would be most critical to have one. The applicant

responded there is in fact a proposed CMU screen wall in front of the drive-through. The wall was not apparent on the presentation but the applicant said it was definitely included in the development plan package. The applicant went on to say that they would also be willing to put additional landscaping on the ROW in front of the CMU screen wall if they were allowed to.

The City staff added to this by saying it would be possible for the applicant to re-vegetate these areas in partnership with TDOT/Gary Wittwer. The City staff also suggested that the applicant could also work with the Real Estate Department to get a temporary easement for the landscaping. The DRB chairman did not recommend working with the Real Estate Department as it could be a complicated procedure.

The DRB proceeded to go over Section 3.11.1.D.1 “General Findings for DDO” and did not find any major issues with the list of findings on this section.

**Motion: THE DESIGN REVIEW BOARD (DRB) HAS REVIEWED THE PROPOSED DESIGN DEVELOPMENT OPTION AND RECOMMENDS TO THE PLANNING & DEVELOPMENT SERVICES DIRECTOR (APPROVAL), FINDING THE PROJECT (IN COMPLIANCE) WITH THE CRITERIA ESTABLISHED IN UDC SECTION 3.11.1.D.1 AND 3 (SEE ATTACHMENT ‘A’); AND SUBJECT TO THE FOLLOWING CONDITIONS:**

- 1. The applicant have a discussion with Gary Wittwer from TDOT regarding using part of the existing ROW area to increase the amount of landscape buffer yard provided and provide evidence of that conversation and the City’s decision regarding the same.**
- 2. If the applicant does get approval from TDOT, then provide landscaping/modify the landscaping to address these areas.**

**4. DRB-18-06 Wang’s Kitchen, 356 East Grant Road, C-2**

The applicant is proposing to fulfill the screening requirements for parking zones by utilizing vegetative screening in all locations. They are interested in creating a landscaped site for the public to enjoy while achieving visual privacy through vegetated screening. The proposal suggests that the vegetative screen is much less imposing than building masonry walls at the perimeter of the development. The applicant is requesting a Design Development Option (DDO) to allow substitute locations for some of the landscape area and maintain the existing screening at the south and south west corner of the property.

UDC Sections applicable to the project include, but are not limited to Sections 7.6.4 and 7.6.5 which provide the landscape screening standards and Sections 2.2.6.C and 3.11.1.B.3 which provide the DDO regulations applicable to this landscape substitution request.

**The Applicant’s Design Development Option Substitution Request**

The applicant is requesting the following Design Development Option (DDO): Per UDC 7.6.4 Landscape Standards. The modification of landscaping and screening standards.

City staff has asked the applicant to provide additional documentation and reasons to support their request for the DDO.

City staff finds this appropriate considering the location of the property; a re-use of a site that has been closed for many years due to construction of grant road; and it is also a new type of development that hasn’t been seen for quite some time – it is a restaurant use that has additional sales associated with it.

The applicant explains that a 10 foot Street Landscape Border cannot be provided at the north part of the site because the existing building is too close to the new Right-of-Way and is encroaching on the 10 foot landscape buffer. The applicant is proposing to provide additional plantings elsewhere on the site to compensate for not being able to provide a vegetative border in front of the building along Grant road.

The city staff explains that the existing fence at the south/south west corner of the property was previously installed by the adjacent property owners (student housing) and they have not negatively commented on the DDO request and feel comfortable with it.

The applicant clarified that the fence technically lies on the property of the student housing – a few inches away from the property line. So the applicant is asking if the screening requirements for the site can be fulfilled by this existing fence.

The applicant also clarified that there will in fact be a 30 inch screen wall around the parking lot. The city staff calls to amend the application to reflect this change. Therefore, a DDO request for a vegetative screen in lieu of a masonry wall is no longer necessary. The DRC member clarified that the DDO request for this project is now only concerned with allowing the reduction in plantings in the landscape buffer in front of the building on the north side.

Given that this project would be using the existing screen wall on the adjacent student housing property to fulfill its own screening requirements, the DRC raised concerns about the maintenance of the screen wall in case the student housing goes under.

The city staff suggested a condition be placed on the applicant's property that should anything happen to the fence on the adjacent property, it would require the applicant to replace it with a fence on their own property with a like material.

**THE DESIGN REVIEW BOARD (DRB) HAS REVIEWED THE PROPOSED DESIGN DEVELOPMENT OPTION AND RECOMMENDS TO THE PLANNING & DEVELOPMENT SERVICES DIRECTOR (APPROVAL), FINDING THE PROJECT (IN COMPLIANCE) WITH THE CRITERIA ESTABLISHED IN UDC SECTION 3.11.1.D.1 AND 3 (SEE ATTACHMENT 'A'); AND SUBJECT TO THE FOLLOWING CONDITIONS:**

- 1. An agreement from the applicant to replace the neighbor's fence in kind with like material if that fence fails in the future or if the fence no longer functions as a screen wall.**
- 2. The applicant also agrees to put a 30 inch screen wall around the parking lot in lieu of a vegetative screen.**

**DRB-18-07 One East Congress, One East Congress Street, OCR-2**

The applicant's project is located within the Rio Nuevo Area (RNA) Overlay Zone, and is zoned I-1 "OCR-2". The applicant proposes to introduce a new door opening with associated stairs leading up to the door.

Tucson Unified Development Code (UDC) Sections applicable to the project include, but are not limited to, Section 2.2.6.C.14 which states that the DRB reviews for recommendation, all proposed development in the Rio Nuevo Area Overlay Zone (RNA), as provided in Section 5.11.8. In formulating its recommendation, the DRB shall apply the design standards in Sections 5.11.4, *Building Design Standards*, 5.11.5, *Site Design Standards*, and 5.11.6, *General Restrictions*.

**The Applicant's Request**

The applicant is requesting review of the exterior façade modifications for compatibility with Rio Nuevo Area Overlay Zone. The proposal is to create a new envelope openings (windows, doors and stairs).

City staff has found that this project is generally in conformance with the UDC standards. However, there were couple concerning items that needed to be clarified with the applicant – the elevation of the entrance and mainly, the shading standards.

Staff explains this portion of the building has not been used for quite some time and the goal of this project is to activate the space and bring a new use into downtown that currently does not exist – a dentist office.

#### Part 1 – Elevation of the Entrance

Staff explains that the portion of the building for this project is located in such a way that the ground elevation of the building at the north side is 4 feet higher and slopes down towards Congress St. on the south due to the Downtown drainage that was re-done. The site is located at ground level and can be accessed by a couple of steps.

The applicant explains the main entrance to this building is through congress st. via a long corridor that goes through the building behind the back. This corridor goes through a secured doorway with card-access entry that is serving another suite and then comes into this suite making the space unrentable. So the proposed elevated entrance on Stone is meant to make this space directly accessible from the street.

#### Part 2 – Shading

Applicant explained that the site is not in shade at 2 PM in the afternoon but it is shaded during the morning and later in the afternoon due to the trees on the sidewalk. Applicant mentioned that they have not done a shade calculation for the site but instead did a general observation of the site on an hourly basis.

DRC member mentioned that the RNA code requires a shade calculation for the site that shows 50% of the sidewalk must be shaded.

#### Part 3 – Entrance Door Design

Applicant explains that the rolling door at the entrance is going to be an open see-through one as opposed to a solid rolling door.

The DRC raises concerns about the compatibility of finish of the door and walls at the entrance. The DRC mentioned that the finish of the door and walls at the entrance should be consistent with the existing finishes on the façade of the building.

The city staff and the DRC also clarified with the applicant that the finish on the steps of the entrance will also need to be consistent with the finish on the existing steps on the entrance of the US Bank along the building front i.e. not necessarily an exact replication of the material but rather an emulation of the finish to show consistency.

**Motion: THE DESIGN REVIEW BOARD (DRB) HAS REVIEWED THE APPLICANT'S PROJECT FOR COMPLIANCE WITH RIO NUEVO AREA DESIGN CRITERIA AND RECOMMENDS TO THE PLANNING & DEVELOPMENT SERVICES DIRECTOR (APPROVAL), FINDING THE PROJECT (IN COMPLIANCE) WITH THE BUILDING DESIGN STANDARDS SET FORTH IN UDC SECTION 5.12.7.C 1-15, AND SITE DESIGN STANDARDS IN SECTION 5.12.7.D (SEE ATTACHMENT 'B') AND SUBJECT TO THE FOLLOWING CONDITIONS:**

- 1. Shade study demonstrates compliance with the RNA standards set forth in the UDC (Section 5.12.7)**
- 2. The new constructed steps at the entrance are consistent with (similar to) the existing steps further south along the same frontage at the entrance of the US Bank:**

- a. The existing tiles at the base of the wall be wrapped into the alcove and terminate at the stairs
- b. The side walls of the alcove to be finished with stucco to match the outside façade of the building
- c. The housing and vertical tracks of the grill are black in color to match the existing and proposed new store front.

5. **DRB-18-08 Mister Car Wash, 415 North 6<sup>th</sup> Ave., C-2**

The applicant's project is located within the Rio Nuevo Area (RNA) Overlay Zone, and is zoned C-1. "Commercial 1". The applicant proposes to rehabilitate and update the historic façade of the original building known as the De Witt Building. The project includes the addition of new windows, landscape planters, a façade on the southern section of the structure.

Tucson Unified Development Code (UDC) Sections applicable to the project include, but are not limited to, Section 2.2.6.C.14 which states that the DRB reviews for recommendation, all proposed development in the Rio Nuevo Area Overlay Zone (RNA), as provided in Section 5.11.8. In formulating its recommendation, the DRB shall apply the design standards in Sections 5.11.4, *Building Design Standards*, 5.11.5, *Site Design Standards*, and 5.11.6, *General Restrictions*.

**The Applicant's Request**

The applicant is requesting review of the exterior façade modifications for compatibility with Rio Nuevo Area Overlay Zone design criteria and keeping with the historic flavor of the structure while bring the project back to its original, historic, nature with a modern edge..

The DRB is found compliance issues with two items ATTACHMEN B: RNA DESIGN CRITIREA:

Item #8 - Modifications to the exterior of historic buildings shall complement the overall historic context of the Downtown and respect the architectural integrity of the historic façade;

The DRB did not find major any issue with the newly installed windows. The openings on the wall have not been altered; only the window frame itself has been replaced. The only minor issue was the detailing on the windows with regard to the mullions but at this stage it would be very difficult to make those changes since the windows have already been installed. This would also need to be reviewed again by the Historic Board since this is historic property. The DRB said they would pass on their recommendations to the Historic Board regarding these windows.

DRB also found issues with the infill CMU wall that replaced the backdoor entry opening on the alleyway. The scale of the infill CMU blocks are did not seem compatible with the existing bricks on the back façade. However, at the same time, the DRB also mentioned that it would not be appropriate to cover up the previous opening in a way that it disappears/completely blends into the façade. It would be appropriate to make the infill wall look different in order to highlight that there was in fact an opening on the wall previously.

The City staff clarified that the Historic element requires the space to highlight the facade as if there was an opening there previously. Hence, the façade is not supposed to blend in the opening as if it wasn't there previously. The City Staff clarified the DRB's comments – the wall does read as an opening but it is not visually pleasing as it could've been.

Item #11 - Adequate shade shall be provided for sidewalks and pedestrian pathways, using shade structure or vegetation, where permitted by the City

The DRB has asked the applicant to submit a shade study with calculations demonstrating the compliance with the RNA standards under the existing conditions or a new plan with changes that would comply with the standards.

The DRB moved this hearing to continue this case so that the applicant can demonstrate compliance with the RNA Design Criteria: Building Design Standards set forth in UDC Section 5.12.7.C – Item#8. - This item specifically refers to the infill CMU wall on the back façade. Note - The DRB is okay with the windows and remaining decision for approval rests with the Historic Board.  
Item #11 – Demonstrate adequate shade is provided for sidewalks

## **6. RND PRE-APPS**

Development within the RNA is required to comply with the following building design standards. Compliance with these standards will ensure that development complies with the design principles set forth in UDC Section 5.12.7 Please describe how the project complies with each of the following:

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### **ATTACHMENT A: DDO FOR LANDSCAPE & SCREENING SUBSTITUTIONS**

**UDC SECTION 3.11.1.C** For landscaping and screening modification requests as provided in Section 3.11.1.B.3, the Design Review Board shall review the request and make a recommendation prior to a decision by the PDSD Director.

#### **SECTION 3.11.1.D.1 “GENERAL FINDINGS FOR DDO”**

For all modification requests, the PDSD Director may approve a DDO request only if the request meets all of the following findings:

- a. Is not a request previously denied as a variance;
- b. Does not modify a conditional requirement or finding to determine whether the use should be allowed in the zone;
- c. Is not to a condition of approval for a rezoning or Special Exception Land Use application;
- d. Does not modify a requirement of an overlay zone, such as, but not limited to, Scenic Corridor, Environmental Resource, Major Streets and Routes Setback, or Airport Environs;
- e. Does not result in deletion or waiver of a UDC requirement;
- f. The modification applies to property that cannot be developed in conformity with the provisions of this Chapter due to physical circumstances or conditions of the property, such as irregular shape, narrowness of lot, exceptional topographic conditions, or location.
- g. Does not create a situation where proposed development substantially reduces the amount of privacy that would be enjoyed by nearby residents any more than would be available if the development was built without the modification;
- h. Does not create a situation where proposed development will block visibility within the required visibility triangle on adjoining streets for either vehicular or pedestrian traffic;
- i. Does not create a situation where the proposed development will cause objectionable noise, odors, trespass lighting, or similar adverse impacts adjacent properties or development; and
- j. Does not create a situation where the development will result in an increase in the number of residential dwelling units or the square footage of nonresidential buildings greater than would occur if the development was built without the modification.

#### **SECTION 3.11.1.D.3 “SPECIFIC FINDING FOR SCREENING MODIFICATION REQUESTS”**

For screening modifications, in addition to the findings in Section 3.11.1.D.1, the PDSD Director shall make a finding that the modification does not lower the height of a required screening device to a point where it does not accomplish its purpose.

### **ATTACHMENT B: RNA DESIGN CRITERIA**

#### **5.12.7. C Building Design Standards**

1. The proposed buildings shall respect the scale of those buildings located in the development zone and serve as an orderly transition to a different scale pursuant to Section 5.12.8.B, *Development*

*Transition Standards.* Building heights with a vastly different scale than those on adjacent properties should have a transition in scale to reduce and mitigate potential impacts. In areas undergoing change, long range plans should be consulted for guidance as to appropriate heights;

2. All new construction must be consistent with the prevailing setback existing within its development zone except that the PDSO Director may approve a different setback than the prevailing setback upon a written finding during the review process that a different setback is warranted by site conditions or applicable development design goals consistent with Section 5.12.1, *Purpose*, and the proposed setback will not be incompatible with adjacent properties, as defined in Section 11.4.2.A;
3. All new construction shall provide scale defining architectural elements or details at the first two floor levels, such as windows, spandrels, awnings, porticos, cornices, pilasters, columns, and balconies;
4. Every commercial building frontage shall provide windows, window displays, or visible activity within and adjacent to the building at the ground floor level, with a minimum of 50 percent of the building frontage providing such features;
5. A single plane of a façade at the street level may not be longer than 50 feet without architectural relief or articulation by features such as windows, trellises, and arcades;
6. Building façade design shall include pedestrian-scaled, down-shielded, and glare controlled exterior building and window lighting;
7. street and visually highlighted by graphics, lighting, marquees, or canopies;
8. Modifications to the exterior of historic buildings shall complement the overall historic context of the Downtown and respect the architectural integrity of the historic façade;
9. Buildings shall be designed to shield adjacent buildings and public rights-of-way from reflected heat and glare;
10. Safe and adequate vehicular parking areas designed to minimize conflicts with pedestrians and bicycles shall be provided;
11. Adequate shade shall be provided for sidewalks and pedestrian pathways, using shade structure or vegetation, where permitted by the City ;
12. Colors may conform to the overall color palette and context of the Downtown area or may be used expressively to create visual interest, variety, and street rhythms. The rationale for an expressive or idiosyncratic use of color shall be described in the site plan submittal;
13. New buildings shall use materials, patterns, and elements that relate to the traditional context of the Downtown area;
14. Twenty-four-hour, street-level activity is encouraged by providing a mixture of retail, office, and residential uses within each building; and,
15. Primary public entries shall be directly accessed from a sidewalk along a street rather than from a parking lot. Public access to commercial and governmental buildings shall be provided at sidewalk grade. The primary floor of, and access to, residential structures may be elevated. Secondary access may be provided from off-street parking areas.

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting [Carolyn Laurie at 5208374953 or carolyn.laurie@tucsonaz.gov](mailto:Carolyn.Laurie@tucsonaz.gov) . Requests should be made as early as possible to allow time to arrange the accommodation.